



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHOATE, HALL & STEWART LLP
EXCHANGE PLACE
53 STATE STREET
BOSTON MA 02109

COPY MAILED

JUL 07 2005

OFFICE OF PETITIONS

In re Application of
W. Peter Hansen et al.
Application No. 10/076,363
Filed: February 15, 2002
Attorney Docket Number: 2004229-0031

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 23, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned December 24, 2004. Accordingly, a Notice of Abandonment was mailed April 27, 2005.

Petitioner files the instant petition under 37 CFR 1.137(b).¹

The petition also seeks to have a terminal disclaimer filed in the instant application on December 10, 2004 withdrawn. Such a request requires review under 37 CFR 1.182.

The general rule is that a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent. As there was no requirement for a terminal disclaimer in this matter and since the withdrawal of the terminal disclaimer will not have an affect on the rejection of the claims indicated in the non-Final Office Action or the amendment filed with the instant petition, the request for withdrawal of the terminal disclaimer, treated under is 37 CFR 1.182, is **GRANTED**.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

This matter is being referred to Technology Center 2877 for appropriate action on the amendment filed May 31, 2005 and for a withdrawal of the terminal disclaimer filed December 10, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions